

# REQUEST FOR COUNCIL ACTION

MEETING

DATE: 4-1-03

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AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. E-11
ITEM DESCRIPTION: Zoning District Amendment #03-06 by Dallas Backhaus requesting to amend the zoning district for approximately 20.09 acres from the R-1 (Mixed Single Family) district, to the R-1X (Mixed Single Family Extra) district. The property is located along the south side of 20 <sup>th</sup> St. SE, east of Marion Road and south of 20 <sup>th</sup> St./37 <sup>th</sup> Ave. SE intersection. A General Development Plan is being considered concurrent with this application.		PREPARED BY: Mitzi A. Baker, Senior Planner

March 31, 2003

## City Planning and Zoning Commission Recommendation:

The City Planning and Zoning Commission held a public hearing on March 12, 2003, to consider this petition.

**Ms. Petersson moved to recommend approval of Zoning District Amendment #03-06 by Dallas Backhaus with staff recommended findings. Mr. Quinn Seconded the motion. The motion carried 5-3.**

## Planning Staff Recommendation:

See attached staff report.

## Council Action Needed:

*The Council should direct the City Attorney to prepare findings of fact reflecting the Council's decision on this zone change.*

*If the Council approves this zone change as petitioned, it should instruct the City Attorney to prepare an ordinance that can be adopted supported by findings of fact and conclusions of law to amend the Zoning for the property.*

## Distribution:

1. City Clerk
2. City Administrator
3. City Attorney: Legal Description attached
4. Planning Department File
5. Land Consultants
6. Applicant: This item will be considered sometime after 7:00 p.m. on Monday April 7, 2003, in the Council/Board Chambers at the Government Center, 151 4th Street SE.

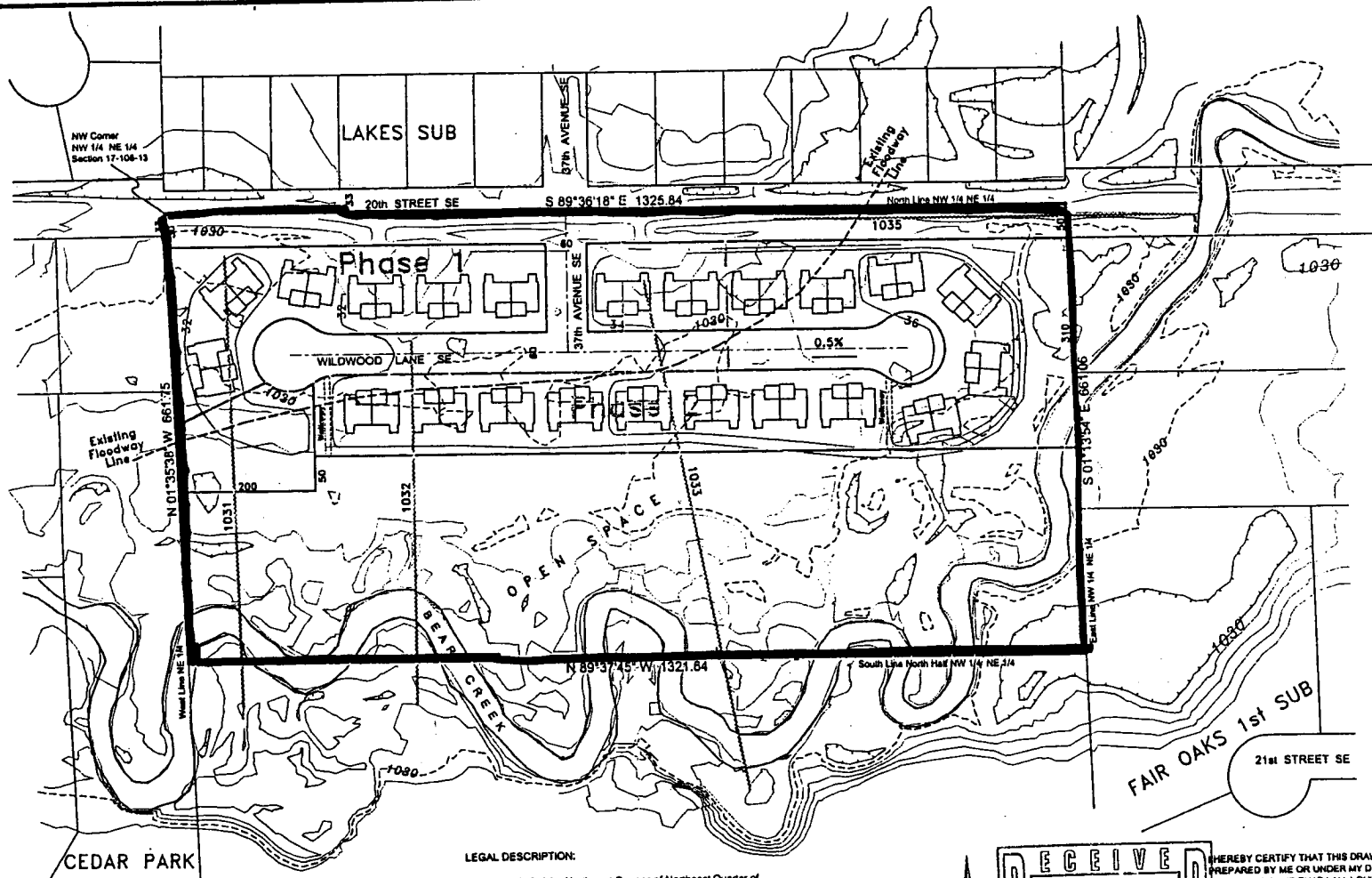
COUNCIL ACTION:

Motion By:

Seconded By:

Action:





- LEGEND**
- 1030 --- EXISTING 10 FOOT CONTOUR
  - 1032 --- EXISTING 2 FOOT CONTOUR
  - 1033 --- PROPOSED 2 FOOT CONTOUR
  - 1033 --- 100 YEAR FLOOD ELEVATION
  - --- DENOTES PROPOSED PHASES
  - --- DENOTES EXISTING FLOODWAY LINE

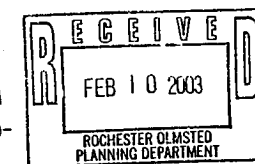
**LEGAL DESCRIPTION:**

The North Half of the Northwest Quarter of Northeast Quarter of Section 17, Township 106, Range 13, Olmsted County, Minnesota; subject to right of way for 30th Street Southeast over the northerly 33.00 feet thereof; containing 20.09 acres, more or less, including said right of way and 13.08 acres, more or less, excluding said right of way.

Owners: Dallas M. Backhus & Donna RaeMann  
2710 Melody Street  
Rochester, MN 55904  
273-1073

Proposed Zoning: R-1x Mixed Single Family Extra District

**NOTE:** The new bridge to be constructed over 20th Street will change the location of the Floodway Line. Phase 2 will require the new bridge and channelization grading.



HEREBY CERTIFY THAT THIS DRAWING WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Cedric Schurz No. 15228

**WILDWOOD MEADOW  
Zone Change & General Development Plan**

JANUARY 30, 2003 JOB NO: 11979-03

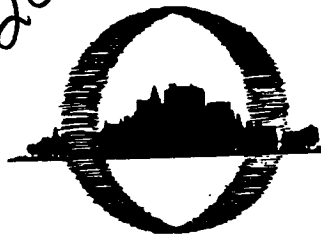
**LAND CONSULTANTS**  
OF SOUTHERN MINNESOTA, INC.  
1418 First Avenue N.E.  
Rochester, Minnesota 55906  
(807) 256-8838

BOUNDARY SURVEYS  
LAND SUBDIVISION  
DEVELOPMENT PLANNING

**ZONE CHANGE**

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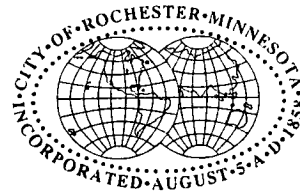
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# ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF  
*Olmsted*



**TO:** City Planning and Zoning Commission

**FROM:** Mitzi A. Baker, Senior Planner

**DATE:** March 6, 2003

**RE:** Zoning District Amendment #03-06 by Dallas Backhaus requesting to amend the zoning district for approximately 20.09 acres from the R-1 (Mixed Single Family) district, to the R-1X (Mixed Single Family Extra) district. The property is located along the south side of 20<sup>th</sup> St. SE, east of Marion Road and south of 20<sup>th</sup> St./37<sup>th</sup> Ave. SE intersection. A General Development Plan is being considered concurrent with this application.

**Planning Department Review:**

**Petitioner:**

Dallas Backhaus  
2710 melody Street SE  
Rochester, MN 55904

**Consultant:**

Land Consultants  
1418 First Ave. NE  
Rochester, MN 55906

**Location of Property:**

The property is located south of 20<sup>th</sup> St. SE, northeast of Marion Road and north of Bear Creek.

**Requested Action:**

The applicant is proposing to zone approximately 20.09 acres to the R-1X (Mixed Single Family Extra) district in the City. The property is currently zoned I-Interim on the Rochester Zoning Map.

**Existing Land Use:**

The property is currently undeveloped.

**Proposed Land Use:**

The Rochester Urban Service Area Land Use Plan designates this area as "Flood Prone", with lands outside the flood prone designation to the north, west and east designated for "low density residential" types of uses, and land to the south and outside of the flood prone designation designated for "industrial" types of uses.

A General Development Plan is being considered concurrent with this application.



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**Adjacent Land Use and Zoning:**

North: Land to the north is platted single family lots, zoned R-1 on the City of Rochester zoning map.

South: Property to the south of Bear Creek is developed with industrial uses in the M-1 (Mixed Commercial-Industrial) district.

West: Single family homes, zoned R-1.

East: To the east is Bear Creek. East of the Creek are single family homes on larger lots.

Note: Adjacent properties are outside the City limits, but within the Marion Township orderly Annexation Agreement area, for which City land use and zoning controls have been extended.

**Transportation Access:**

Access to this property would be from 20<sup>th</sup> Street SE, south of the existing intersection of 20<sup>th</sup> St. and 37<sup>th</sup> Ave. SE. Public roads are proposed to serve the development. Additional right-of-way will need to be dedicated for 20<sup>th</sup> Street SE. Access control will need to be dedicated for all frontage on 20<sup>th</sup> Street, except for the public road opening.

**Wetlands:**

Hydric soils exist on the site according to the Soil Survey. The property owner is responsible for identifying wetlands on the property and submitting the information to the Planning Department.

Floodplain and Shoreland regulations will apply to this property.

**Neighborhood Meeting:**

A neighborhood meeting was held on February 26, 2003. A summary of the meeting is attached.

**Report Attachments:**

1. Area Zoning Map
2. Referral Comments
3. Neighborhood Meeting Summary

**Analysis for Zoning District Amendment:**

Under the provisions of Paragraph 60.338 of the Rochester Land Development Manual, the Commission shall recommend for approval and the Council shall approve, an application requesting an amendment to the zoning map if the amendment satisfies the following criteria:

- 1) The criteria of this subdivision apply to those amendments to the zoning map filed by formal petition. An amendment need only satisfy one of the following criteria:

- a) The area, as presently zoned, is inconsistent with the policies and goals of the Comprehensive Plan;
- b) The area was originally zoned erroneously due to a technical or administrative error;
- c) While both the present and proposed zoning districts are consistent with the Plan, the proposed district better furthers the policies and goals of the Comprehensive Plan as found in Chapters 2 and 3 of the Rochester Urban Service Area Land Use Plan, Chapter 3 of the Housing Plan, and Chapter 10 of the ROCOG Long Range Transportation Plan; or
- d) The area has changed or is changing to such a degree that it is in the public interest to rezone so as to encourage development or redevelopment of the area.

**Proposed R-1X:** The Rochester Urban Service Area Land Use Plan designates this drainageway as "Flood Prone", with lands outside the flood prone designation to the north, west and east designated for "low density residential" types of uses, and land to the south and outside of the flood prone designation designated for "industrial" types of uses. Upon extension of City of Rochester land use and zoning controls to this area and zoning this property on the City of Rochester Zoning Map, the property was placed in the I-Interim zoning district. The current I-Interim district is not intended to be a permanent zoning district.

*It is in the public interest to re-zone the property to encourage development of the property. Sanitary sewer and water service has been installed in 20<sup>th</sup> St. SE adjacent to this property. A portion of this property could currently be filled and developed (subject to conditional use permit approval) to facilitate some residential development. If the applicant is successful in amending the FIRM maps in the future, to shift the Floodway boundary to the south, additional land will be available for development. Low density residential development in the R-1X district can be compatible on this property and in this area, subject to limitations of Floodplain and Shoreland Ordinances.*

- 2) The criteria of this subdivision also apply to those amendments to the zoning map filed by formal petition. However, an amendment must satisfy all of the following criteria:
  - a) the permitted uses allowed within the proposed zoning district will be appropriate on the subject property and compatible with adjacent properties and the neighborhood; and

**Proposed R-1X:** Much of this property is encompassed by the Floodway for Bear Creek. The remainder of the property is within the 100-year Flood Prone district. Placement of fill on this property will require a conditional use permit. In addition, the applicant is proposing to amend the Floodway boundary in the future. This will need to be done in coordination with the Planning Department, County Public Works, MNDNR and FEMA.

This property does have development limitations due to the current Floodway and 100-Year Floodplain designations. The northwest ¼ of the property is outside of the existing Floodway, but within the 100-Year Floodplain. A Conditional Use Permit will be required for filling and developing the property. If the applicant is successful in amending the FIRM maps through FEMA in the future, additional portions of this property may be available for development. Low density

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***residential development in the R-1X district can be compatible on this property and in this area, subject to limitations of Floodplain and Shoreland Ordinances.***

- b) *the proposed amendment does not involve spot zoning. (Spot Zoning involves the reclassification of a single lot or several small lots to a district which is different than that assigned to surrounding properties, for reasons inconsistent with the purposes set forth in this ordinance, the state enabling legislation, or the decisions of courts in this state).*

**Proposed R-1X: *The amendment would not be considered spot zoning.***

**Staff Recommendation:**

Based on the findings above, staff recommends approval to zone approximately 20.09 acres from R-1 (Mixed Single Family) to R-1X (Mixed Single Family Extra) on the City of Rochester zoning map.

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ROCHESTER-OLMSTED PLANNING DEPARTMENT  
2122 CAMPUS DRIVE SE - SUITE 100  
ROCHESTER, MN 55904  
PHONE (507) 285-8232  
FAX (507) 287-2275

Date: February 11, 2003  
To: Agencies Indicated Below  
From: Jennifer Garness, Planning Department  
Subject: Zoning District Amendment #03-06 by Dallas Backhaus requesting to amend the zoning district for approximately 20.09 acres from the R-1 (Mixed Single Family) district, to the R-1X (Mixed Single Family Extra) district. The property is located along the south side of 20th St. SE, east of Marion Road and south of 20th St./37th Ave. SE intersection. A General Development Plan is being considered concurrent with this application.

This application is scheduled for consideration by the City Planning and Zoning Commission on March 12, 2003, in the Council/Board Chambers of the Government Center, 151 4<sup>th</sup> Street SE. In order for the Planning Department to prepare a thorough review of this application, we would appreciate receiving your comments by **February 28, 2003**. You may also appear at the meeting if you so desire. Your cooperation and assistance is greatly appreciated. *If you have comments, in addition to forwarding them to the Planning Department, please send a copy to:*

Dallas Mackhaus  
2710 Melody Street SE  
Rochester MN 55904  
(507) 273-1073

Land Consultants of SE Minnesota, Inc.  
Attn: Cedric Schutz  
1418 First Avenue NE  
Rochester MN 55906  
(507) 288-8855

BARR Engineering Company  
4700 West 77<sup>th</sup> Street  
Minneapolis MN 55435-4803  
(952) 832-2600

City Agencies

1. Public Works  
Richard Freese
2. Fire Department  
Vance Swisher
3. Crime Prevention  
Darrel Hildebrant, Gov. Center
4. RPU Operations Division  
Mike Engle
5. RPU Water Division  
Donn Richardson
6. Park & Recreation  
Denny Stotz
7. Building Safety  
Ron Boose
8. City Attorney  
Dave Goslee
9. Downtown Dev. Dist.  
Doug Knott
10. City Administration  
Terry Spaeth
11. Transportation Planner  
Charlie Reiter
12. John Harford, Planning Dept.

County Agencies

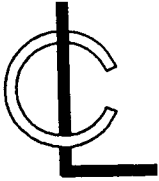
13. Health Department  
Rich Peter
14. Public Works
15. GIS Division  
Randy Growden
16. Environmental Resource Services

Other Agencies

17. School Board  
Jeff Kappers
18. Aquila  
Neal Clausen
19. Aquila  
Rory Lenton
20. Qwest  
Julie Schletty
21. Charter Communications
22. MN DOT  
Dale Maul
23. Post Office  
Supervisor
24. MN DNR  
Bob Bezek
25. SWCD
26. Peoples Coop  
Rick Wellik
27. Peoples Coop  
Sandy Sturgis
28. CUDE, Design Review Committee  
Christine Schultze
29. Susan Waughtal Neighborhood  
Organizer
30. Commissioner of DNR

*This property is covered by Stouland  
and flood plain rules in the zoning  
ordinance.*





# LAND CONSULTANTS

OF SOUTHERN MINNESOTA, INC.

1418 First Avenue N.E.  
Rochester, Minnesota 55906  
507-288-8855 / Fax 288-8815

Jeane C. Gauvin, LS  
Cedric Schutz, LS

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## Memo

<b>To:</b>	Jennifer Garness	<b>From:</b>	Cedric Schutz
<b>Fax:</b>		<b>Pages:</b>	2 Including Sign In Sheet
<b>Phone:</b>		<b>Date:</b>	February 27, 2003
<b>Re:</b>	Wildwood Meadows	<b>cc:</b>	

☐ Urgent   ☐ For Review   ☐ Please Comment   ☐ Please Reply   ☐ Please Recycle

A neighborhood meeting was held on Wednesday, February 26th, at Dallas Truck Center. The meeting started at 8:00 PM with 21 neighbors in attendance. Attached is a copy of the sign-in sheet. A handout was given showing the layout of roads with building locations and townhouse plans.

Dallas Backhaus and Cedric Schutz presented the proposed layout and time schedule. Neighborhood people asked and discussion covered the following:

- Annexation and zone change for property to be in City of Rochester.
- Floodplain and floodway on this project. Amount of fill required for flood protection.
- A substantial amount of time was spent on the new bridge over Bear Creek on 20th Street. Affects up and down stream and this project. Size, height, length of bridge. What channel change to be done by County.
- Amount of wetlands on property. More to be created with this project.
- Phase 1 in summer/fall of 2003 and Phase 2 after bridge.

Meeting concluded at 9:30. Good meeting with no one openly opposing the project, and appeared neighbors are OK with project as proposed.

268 PLEASE SIGN IN. THANK YOU

NAME	Address	Phone #
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Dean - Mary (Adminal)	3719 24th St SE	288-3550
Carroll & Elaine Roberts	3217-26th St SE	255-0440
Harry & Ann Rittman	3225 27th St SE	282-9691
Norm Brinkard	3536 20th St SE	282-2132
Mr. Maine Lynn Maine	3651 20th St SE	282-6825
Denny Kitzgibler	1942 Christopher Dr. SE	281-1810
Prof. Schlenker	1942 Christopher Ct. SE	
Tom Burns	1535 Charlotte Ct. SE	
Matthew Jackson	1907 36 Ave SE	280-0890
Cheryl McCullough	2075 39th Ave SE	280-7649
WEICHA	3703 24th St SE	
Chris Wall	3536 20th St SE	282-2132
Kell Hamano	1946 35th Ave S.E.	282-2702

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THOMPSON TITLE & ESCRO  
THOMPSON LAW OFFICE

2258 MARION ROAD SE  
ROCHESTER, MN 55904

JEFFREY EUGENE THOMPSON  
CERTIFIED REAL PROPERTY  
LAW SPECIALIST SINCE 1990

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HOME: (507) 281-0999

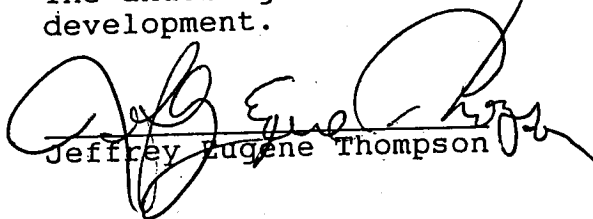
March 3, 2003

Rochester Olmsted Planning Department  
2122 Campus Drive S.E., Suite 100  
Rochester, MN 55904-4744

Re: Zoning District Amendment #03-06  
General Development Plan #203  
Dallas Backhaus

Dear Zoning Administrator:

The undersigned are in favor of the above referenced  
development.

  
Jeffrey Eugene Thompson

  
Grace R. Thompson

Ms. Rivas questioned if the proposed map needed to have additional changes with regard to changes made from the data the consultant used.

Ms. Rivas stated that, if the proposed map is not accurate, the Commission could make a recommendation that the map be amended prior to appearance before the City Council instead of approving the request.

Mr. Harford responded that any changes that needed to be made to the map would be made prior to going to the City Council. He identified the two areas that needed attention prior to submitting the application to the City Council, one being the Hexum property east of US 63 and south of 40<sup>th</sup> St., and the Floodway designation south of 48<sup>th</sup> St. SW.

A representative of MnDOT, Mr. Jai Kalsy (2900 48<sup>th</sup> Street NW, Rochester MN) addressed the Commission. He stated that, although the applicant is MnDOT, the project is a joint cooperative effort between the State, City, and County.

Ms. Baker clarified that the Commission is being asked to support the concept of changing the maps to reflect the proposed project. The City Council would not be asked to take action to adopt a formal Ordinance changing the maps until after the construction of the project and after the as-builts are approved by FEMA and FEMA approves changing the maps. She explained that the project is being reviewed by the Commission at this time so that MnDOT would know if there is a general support from the community.

With no one else wishing to be heard, Ms. Wiesner closed the public hearing.

Mr. Haeussinger expressed concern with where the lines should be drawn and what should actually be approved.

Ms. Rivas moved to recommend approval of Zoning District Amendment #03-05 by the Minnesota Department of Transportation with the recommendation that special attention be made to two areas one the Hexum property and the other the Floodway of Willow Creek south of 48<sup>th</sup> St., SW prior to Council approval. Ms. Petersson seconded the motion. The motion carried 7-1, with Mr. Haeussinger voting nay.

\* Zoning District Amendment #03-06 by Dallas Backhaus requesting to amend the zoning district for approximately 20.09 acres from the R-1 (Mixed Single Family) district, to the R-1X (Mixed Single Family Extra) district. The property is located along the south side of 20<sup>th</sup> St. SE, east of Marion Road and south of 20<sup>th</sup> St./37<sup>th</sup> Ave. SE intersection. A General Development Plan is being considered concurrent with this application.

AND

General Development Plan #203 by Dallas Backhaus to be known as Wildwood Meadow. The applicant is proposing to develop property located east of Marion Road and south of the intersection of 20<sup>th</sup> Street and 37<sup>th</sup> Ave SE with single family attached housing, served with public roadways. The property includes approximately 20 acres of land, over half of which is currently designated Floodway. A zoning district amendment is being considered concurrent with this application.

Ms. Mitzi A. Baker presented the staff reports, dated March 6, 2003, to the Commission. The staff reports are on file at the Rochester-Olmsted Planning Department.

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Ms. Baker clarified that the property is currently zoned Interim and the zoning district change would be to the R-1x to allow for single-family attached townhome style development to occur.

Ms. Baker explained that the property was not actually in the City limits. However, the property is within the Marion Township Orderly Annexation Agreement. She stated that the City has been extending sewer and water facilities to that area.

Ms. Baker noted that, in both the zone change and general development plan staff reports, it is indicated that there are limitations to development based on current flood plain mapping. She explained that the applicant is currently looking at amending the floodway line.

Discussion ensued regarding overlay zoning districts.

Ms. Baker explained that, prior to scheduling the general development plan before the City Council, staff needs the applicant to submit revised plans with regard to the required modifications to circulate for comments to other agencies.

Mr. Haeussinger questioned if the requests weren't premature, since the property is not located within the City limits.

Ms. Baker explained that the property is in the Marion Township Orderly Annexation Agreement. She explained how the City has land use controls within that area.

Mr. Burke asked why the property hadn't been annexed yet.

Ms. Baker responded that the property would be annexed into the City, prior to any development occurring. She stated that the property is not currently contiguous to the City limits. However, because of the orderly annexation agreement, it doesn't preclude them from being annexed.

Mr. Staver questioned why the applicant did not submit a request for annexation along with the zoning district amendment and general development plan.

Ms. Baker responded that it was not uncommon to review general development plans prior to the property being annexed.

Ms. Petersson agreed that the Commission had reviewed general development plans prior to being annexed in the past.

Ms. Baker stated that the property was also located in the shoreland district. Therefore, they would be subject to shoreland provisions.

Mr. Cedric Schutz, of Land Consultants (1418 First Avenue NE, Rochester MN), addressed the Commission. He stated that revised plans would be submitted to the Planning Department prior to the requests being scheduled for the City Council.

Ms. Wiesner asked why they did not have an annexation request before them.

Mr. Schutz responded that they are not adjacent to property within the City limits at this time.

Ms. Baker explained that the timing of the annexation was overlooked when the general development plan and zoning district amendment applications were submitted. However, it should not hold up the proposed requests.

Discussion ensued regarding what would occur during Phase I of the development.

Ms. Rivas asked if Mr. Schutz was confident that the floodway boundaries would be changed.

Mr. Schutz responded that they are working with Barr Engineering. He indicated that it depended on the 20<sup>th</sup> Street bridge.

Ms. Baker stated that some of the public agencies met to discuss the potential for changing the floodway boundaries. She indicated that there might be some basis for amending the maps. However, the City is not in a position to state that they support it. There is some additional information they need to receive before they support an amendment to area in future.

Ms. Rivas stated that, if the floodway is not changed, they could have smaller road widths and be private.

Mr. Schutz stated that the owner wants wider roadways and parking on both sides.

Discussion ensued regarding other possible designs of the development, if the floodway lines were not changed.

Discussion ensued regarding parkland requirements.

Mr. Larry Peterson, of 3725 20<sup>th</sup> Street SE, Rochester MN, addressed the Commission. He indicated that he was across the highway from the proposed development. He expressed dissatisfaction that this meeting did not occur prior to the neighborhood meeting. He indicated that he was told at the neighborhood meeting that the property would not be annexed for another three years. He asked what turning lanes were proposed.

Ms. Baker responded that, because 20<sup>th</sup> Street is a County Road and due to classification, they are looking at improving the roadway over time. The right-turn lane into the development and possibly a bypass or left-turn lane from the westbound movement.

Mr. Peterson asked if 20<sup>th</sup> Street would be widened.

Ms. Baker responded that they County would probably look into widening it at some point.

Mr. Peterson asked if it would occur before the proposed development occurs.

Ms. Baker responded that she was not sure of the timing.

Mr. Peterson asked what is meant when stating "access control will need to be dedicated for all frontage along 20<sup>th</sup> Street".

Ms. Baker stated that, when property is subdivided, the formal documents identifying the subdivision of land would identify along the entire frontage that there can be no direct access from those properties to 20<sup>th</sup> Street.

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Mr. Peterson asked if it would mean that he couldn't develop his lots and have direct access to 20<sup>th</sup> Street.

Ms. Baker responded that the condition would not impact his property on the north side. It is only particular to the proposed site.

Mr. Peterson expressed concern with the lack of information with regard to the proposed holding pond. He questioned if the speed limit would be reduced. He also asked what would happen with flood storage.

Ms. Baker explained that what is before the Commission is a concept plan on how they want to develop the site. If they move forward with developing and propose to fill it, there will be very specific site plans and grading plans that would need to be analyzed. She stated that the Ordinance regulates their limitations for affecting other properties.

Mr. Quinn stated that the staff report explains other process the applicant must go through.

Mr. Peterson asked how soon the City would be bringing water and sewer past his property and how soon the bridge would be put in. He expressed concern with the roadway being torn up several different times.

Ms. Baker responded that he would need to speak to Public Works with regard to the timing of the services. She indicated that she knew that the City Public Works is working with County Public Works regarding coordination of events.

With no one else wishing to be heard, Ms. Wiesner closed the public hearings.

**Ms. Petersson moved to recommend approval of Zoning District Amendment #03-06 by Dallas Backhaus with the staff-recommended findings. Mr. Quinn seconded the motion.**

Ms. Wiesner stated that the Commission may have heard previous requests without the annexation, but does not approve of such a process.

Mr. Staver agreed with Ms. Wiesner.

**The motion carried 5-3, with Ms. Wiesner, Mr. Haeussinger, and Mr. Staver voting nay.**

**Ms. Petersson moved to recommend approval of General Development Plan #203 by Dallas Backhaus to be known as Wildwood Meadow with the staff-recommended findings and conditions. Mr. Quinn seconded the motion.**

Ms. Rivas stated that she was uncomfortable with the plan going forward.

Ms. Petersson stated that she was uncomfortable with the floodway, but the staff recommendations cover it.

Discussion ensued regarding what would occur if the design were changed.

**The motion to recommend approval failed 4-4, with Mr. Haeussinger, Ms. Rivas, Ms. Wiesner, and Mr. Staver voting nay. The request moves forward without**

**recommendation to the City Council.**

Land Use Plan Amendment petition #03-03 AND Zoning District Amendment #03-07 by Jerry Rishavy to amend the Land Use Plan designation from "medium density residential" to "commercial" on approximately .53 acres of land located along the east side of the East Frontage Road of Highway 52, north of 26<sup>th</sup> Street NW and south of Park Place Motors. The property is proposed to be zoned B-4 (General Commercial) to allow for uses permitted in the B-4 zoning district. The westerly portion of the lot was rezoned to the B-4 district in 2002.

**AND**

General Development Plan #204 by Jerry Rishavy. The applicant is proposing to develop the east portion of a parcel of land located north of 26<sup>th</sup> Street NW, along the east frontage road of T.H.52 with commercial uses permitted in the B-4 (General Commercial) zoning district. The westerly portion was rezoned to the B-4 district in 2002.

Ms. Mitzi A. Baker presented the staff reports, dated March 6, 2003, to the Commission. The staff reports are on file at the Rochester-Olmsted Planning Department.

Ms. Baker explained the history of the property with previous application requests.

Mr. Staver asked if the use of the existing house is an approved use in the current zoning district.

Ms. Baker responded yes. She explained that an office in the R-3 zoning district is permitted.

Mr. Staver asked why the applicant was requesting to change the zoning district if the use is permitted.

Ms. Baker deferred the question to the applicant.

Discussion ensued regarding zoning district uses and access restrictions to certain roads.

Mr. Josh Johnson of McGhie & Betts (1648 Third Avenue SE, Rochester MN), addressed the Commission. He showed a current zoning map of the properties in the area. One year ago, the previous property owner applied for and received approval of a land use plan, zone change, and general development on the westerly portion of the site. Since then, Mr. Rishavy has purchased the land and gone through a site plan approval process and established a car sales lot on the property. The existing house is still located in the R-3 zoning district. Mr. Rishavy has reconfigured a room to meet ADA standards for the use of an office for the car sales lot. At this time, the existing garage is located in the R-3 zoning district. Therefore, he is unable to use it for the car sales lot. The proposed requests are similar to those granted to Park Place Motors and others along the frontage road. The request is appropriate for Highway Commercial due to flat terrain, access to the frontage road, and there is a concentration of similar uses. The lot shares approximately 70 feet of lot line with the rear yard neighbor. He indicated that site appearances standards would need to be followed when the property is further developed. This includes a bufferyard.

Mr. Johnson stated the applicant does not propose to expand his sales lot at this time. He would just like to be able to use his garage for business. He indicated that what he could build on the site would be more intensive than what is being proposed.